

AMENDED IN SENATE MAY 3, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1190

Introduced by Senator Jackson
(Coauthor: Assembly Member Williams)

February 18, 2016

An act to amend ~~Sections 30324 and 30327~~ *Section 30324* of, and to add Section 30327.2 to, the Public Resources Code, relating to the California Coastal Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1190, as amended, Jackson. California Coastal Commission: ex parte communications: staff communications.

The California Coastal Act of 1976, for purposes of the act, defines an “ex parte communication” as any oral or written communication between a member of the California Coastal Commission and an interested person, as defined, about a matter within the commission’s jurisdiction, as defined, that does not occur in a public hearing, workshop, or other official proceeding or on the official record of the proceeding on the matter, but excludes from that definition certain communications, including communications between a staff member acting in his or her official capacity and any commission member or interested person, as prescribed. The act prohibits a commission member and an interested person from conducting an ex parte communication unless the member fully discloses and makes public the ex parte communication, as specified, and prohibits a commission member or alternate from making, participating in making, or in any other way attempting to use his or her official position to influence a commission

decision about which the member or alternate has knowingly had an ex parte communication that has not been reported.

~~This bill would instead require certain ex parte communications to be reported in writing, and included in the record of the applicable proceeding. The bill would prohibit a commission member or an interested person from conducting any ex parte communication regardless of whether the communication is disclosed. The bill concerning an adjudicative or enforcement proceeding before the commission, and would prohibit a commission member from voting on or otherwise participating in any commission proceeding to which one of these communications applies, even if the communication is reported.~~

~~This bill would also prohibit a commission member or alternate from attempting to use his or her official position to influence commission staff for purposes of changing or eliminating any information contained in a commission staff report or analysis or altering any recommendation pertaining to a matter within the commission's jurisdiction prior to the time the staff report, analysis, or recommendation is made public at a hearing, workshop, or other official proceeding, or in any way alter a commission staff report, analysis, or recommendation prior to a public hearing on that matter to which the report, analysis, or recommendation applies. The bill would make a willful violation of that prohibition punishable by fine or imprisonment in the state prison and would forever disqualify a commission member or alternate found guilty of a violation who willfully violates that provision from holding any office in this state. By creating a new crime, the bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 30324 of the Public Resources Code is
- 2 amended to read:
- 3 30324. (a) No commission member, nor any interested person,
- 4 shall conduct an ex parte ~~communication.~~ *communication*

1 *concerning an adjudicative or enforcement proceeding before the*
2 *commission.*

3 *(b) (1) If a commission member, or any interested person,*
4 *conducts any ex parte communication, including a communication*
5 *that is in violation of subdivision (a), the commission member shall*
6 *fully disclose and make public the communication by providing a*
7 *full report of the communication to the executive director within*
8 *seven days after the communication or, if the communication*
9 *occurs within seven days of the next commission hearing, to the*
10 *commission in writing to be included on the record of the*
11 *proceeding at that hearing.*

12 *(2) Notwithstanding Section 30327, if a commission member*
13 *conducts an ex parte communication that is in violation of*
14 *subdivision (a), he or she shall not vote on or otherwise participate*
15 *in any commission proceeding to which the communication applies.*

16 *(c) (1) The commission shall adopt standard disclosure forms*
17 *for reporting ex parte communications which shall include, but*
18 *not be limited to, all of the following information:*

19 *(A) The date, time, and location of the communication.*

20 *(B) (i) The identity of the person or persons initiating and the*
21 *person or persons receiving the communication.*

22 *(ii) The identity of the person on whose behalf the*
23 *communication was made.*

24 *(iii) The identity of all persons present during the*
25 *communication.*

26 *(C) A complete, comprehensive description of the content of the*
27 *ex parte communication, including a complete set of all text and*
28 *graphic material that was part of the communication.*

29 *(2) The executive director shall place in the public record any*
30 *report of an ex parte communication.*

31 ~~SEC. 2. Section 30327 of the Public Resources Code is~~
32 ~~amended to read:~~

33 ~~30327. (a) No commission member or alternate shall make,~~
34 ~~participate in making, or in any other way attempt to use his or~~
35 ~~her official position to influence a commission decision about~~
36 ~~which the member or alternate has knowingly had an ex parte~~
37 ~~communication.~~

38 ~~(b) In addition to any other applicable penalty, including a civil~~
39 ~~fine imposed pursuant to Section 30824, a commission member~~
40 ~~who knowingly violates this section shall be subject to a civil fine;~~

1 ~~not to exceed seven thousand five hundred dollars (\$7,500).~~
2 ~~Notwithstanding any law to the contrary, the court may award~~
3 ~~attorneys' fees and costs to the prevailing party.~~

4 ~~SEC. 3.~~

5 *SEC. 2.* Section 30327.2 is added to the Public Resources Code,
6 to read:

7 ~~30327.2. (a) No commission member or alternate shall attempt~~
8 ~~to influence commission staff for purposes of changing or~~
9 ~~eliminating any information contained in a staff report or analysis~~
10 ~~or altering any recommendation pertaining to a matter within the~~
11 ~~commission's jurisdiction prior to the time the staff report, analysis,~~
12 ~~or recommendation is made public at a hearing, workshop, or other~~
13 ~~official proceeding.~~

14 ~~(b) A commission member or alternate who willfully violates~~
15 ~~subdivision (a) is punishable by a fine of not more than one~~
16 ~~thousand dollars (\$1,000) or by imprisonment in the state prison,~~
17 ~~and is forever disqualified from holding any office in this state.~~

18 *30327.2. (a) No commission member or alternate shall attempt*
19 *to use his or her official position to influence or in any way alter*
20 *the contents of a commission staff report, analysis, or*
21 *recommendation prior to a public hearing on that matter to which*
22 *the staff report, analysis, or recommendation applies.*

23 *(b) This section shall not be construed to prohibit a*
24 *commissioner or alternate from communicating with commission*
25 *staff members about matters before the commission.*

26 *(c) A commission member or alternate who willfully violates*
27 *subdivision (a) is forever disqualified from holding any public*
28 *office in this state.*

29 *(d) This section is intended to protect the public interest by*
30 *ensuring that commission members and alternates do not unduly*
31 *influence the contents of a staff report, analysis, or*
32 *recommendation.*

33 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
34 ~~Section 6 of Article XIII B of the California Constitution because~~
35 ~~the only costs that may be incurred by a local agency or school~~
36 ~~district will be incurred because this act creates a new crime or~~
37 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
38 ~~for a crime or infraction, within the meaning of Section 17556 of~~
39 ~~the Government Code, or changes the definition of a crime within~~

1 ~~the meaning of Section 6 of Article XIII B of the California~~
2 ~~Constitution.~~

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